



701 B Street, Suite 1700 | San Diego, CA 92101  
 T | 619.338.1100 F | 619.338.1101  
 www.bholaw.com

Timothy G. Blood  
 tblood@bholaw.com

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VIA ECF

Honorable Charles R. Breyer  
 United States District Judge  
 Northern District of California  
 450 Golden Gate Avenue, Dept. 6  
 San Francisco, CA 94102-3483

Re: *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and  
 Products Liability Litigation*, MDL No. 2672 CRB (JSC)

Dear Judge Breyer:

Pursuant to Pretrial Order No. 2, please accept this letter as my application for appointment to the plaintiffs' steering committee with regard to the class actions brought on behalf of consumer owners/lessees. My firm Blood Hurst & O'Reardon, LLP ("BHO") and I have extensive experience with the applicable area of law and my work with governmental entities in obtaining record setting resolutions makes me particularly qualified for a steering committee position. Plaintiffs' counsel from 44 firms throughout the country have expressed their support for my appointment. *See* Exhibit A.

At their core, the actions brought on behalf of car owners/lessees, including those in which I am currently counsel,<sup>1</sup> are consumer fraud cases. My practice, and the primary focus of my firm, is the nationwide prosecution of consumer fraud class actions. I have significant experience in prosecuting nationwide class actions, including MDL proceedings. Further, and particularly relevant to this proceeding where the U.S. Government has signaled a willingness to resolve these actions and the defendant retained Kenneth Feinberg, I have worked closely with government agencies in public-private partnerships to resolve consumer protection litigation. These include resolving consumer fraud class actions in partnership with the Federal Trade Commission ("FTC") and most state attorneys general. One of these, *In re Skechers*, resulted in a class settlement that was the largest consumer recovery in a false advertising case in FTC history. I also have experience working on cases where, as here, large numbers of class members have already retained counsel and may opt-out of any class wide resolution, which can present its own challenges to obtaining a resolution and effectively implementing the settlement.

I have been appointed lead counsel by numerous state and federal courts, including in complex and multi-district litigation involving false advertising claims brought on behalf of consumers. I have also tried, either as assisting counsel or co-counsel, class actions and am responsible for a number of appeals resulting in consumer protection law decisions relevant to this case. An abbreviated version of my firm's resume focusing on my experience is attached as Ex. B. A full version the resume is available at [www.bholaw.com](http://www.bholaw.com).

<sup>1</sup> *DeFiesta v. Volkswagen Group of Am., Inc.*, No. 2:15-cv-07012-JLL-JAD (D.N.J.), *Cunningham v. Volkswagen Group of Am., Inc.*, No. 2:15-cv-7079-JLL-JAD (D.N.J.), and *Badeanlou. v. Volkswagen Group of Am., Inc.*, No. 2:15-cv-7012-JLL-JAD (D.N.J.).



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I have exhibited ability to successfully and efficiently lead by coordinating with groups of plaintiffs' counsel and defendants. Contact information for some of these judges is attached as Ex. C. For example, Chief Judge Barry Ted Moskowitz appointed me co-lead class counsel in *In re Hydroxycut Mktg. and Sales Practices Litig.*, MDL No. 2087 (S.D. Cal.), where I lead all discovery, motion practice and settlement negotiations from inception. This required coordination of dozens of separately filed consumer class actions from numerous states with numerous plaintiffs' counsel and counsel from hundreds of parallel personal injury actions.

Similarly, in *In re Sony Gaming Networks and Customer Data Sec. Breach Litig.*, MDL No. 2258 (S.D. Cal.), Judge Anthony J. Battaglia selected me plaintiffs' liaison counsel and a member of the steering committee. While termed "liaison counsel," I was responsible for actively coordinating discovery, motion practice, and settlement among six other appointed plaintiffs' steering committee counsel.

Additionally, as one of two lead class counsel and a member of plaintiffs' steering committee in the statewide coordinated *In re Toyota Motor Cases*, JCCP No. 4621 (Cal. Super. Ct., Los Angeles Cnty., Hon. Anthony J. Mohr), I was responsible for litigating the consumer class actions brought on behalf of California owners/lessees of Toyota vehicles relating to unintended acceleration. This required extensive coordination with plaintiffs' counsel, including the court-appointed leaders of the parallel MDL action pending in the Central District of California.

In addition to the litigation against Toyota, I have represented consumers asserting consumer protection class action claims against automobile manufactures including, BMW, Honda, Ford, and General Motors.

Additionally, I have unique experience as class counsel working with government enforcement agencies in a coordinated effort to resolve corresponding public and private false advertising actions brought on behalf of consumers. As lead counsel in *In re Skechers Toning Shoes Prods. Liab. Litig.*, MDL No. 2308 (W.D. Ky., Hon. Thomas B. Russell) and *In re Reebok Easytone Litig.*, No. 4:10-cv-11977 (D. Mass., Hon. F. Dennis Saylor) I worked with the FTC in a unique public-private partnership to obtain record setting recoveries for consumers.

I have served as class counsel in a number of additional consumer class actions involving falsely advertised consumer products. Recent appointments include: *Rikos v. P&G*, No. 1:11-cv-226 (S.D. Ohio, Hon. Timothy S. Black) (certifying five single-state classes alleging consumer protection claims); *Murr v. Capital One Bank (USA), N.A.*, No. 1:13-cv-1091 (E.D. Va., Hon. Leonie M. Brinkema) (consumer protection claims involving credit cards); *Johns v. Bayer Corp.*, No. 09-cv-1935 (S.D. Cal., Hon. Anthony J. Battaglia) (certifying UCL and CLRA claims in action involving false advertising); *Johnson v. General Mills, Inc.*, No. 8:10-cv-61 (C.D. Cal., Hon. Cormac J. Carney) (certifying UCL and CLRA claims in action involving false advertising); *In re Enfamil Lipil Mktg. and Sales Practices Litig.*, MDL No. 2222 (S.D. Fla., Hon. James I. Cohn) (certifying FDUTPA claims alleging false advertising).



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I am responsible for a number of favorable published appellate decisions. Some that I have worked on resulted in relevant precedent-setting consumer protection decisions, including: *Rikos v. P&G*, 799 F.3d 497 (6th Cir. 2015) (consumer protection and false advertising); *Corvello v. Wells Fargo Bank, N.A.*, 728 F.3d 878 (9th Cir. 2013) (consumer protection); *Fitzpatrick v. General Mills, Inc.*, 635 F.3d 1279 (11th Cir. 2011) (consumer protection and false advertising); *Kwikset Corp. v. Superior Ct.*, 51 Cal. 4th 310 (2011) (consumer protection and false advertising); *McKell v. Washington Mutual Bank, Inc.*, 142 Cal. App. 4th 1457 (2006); and *Lebrilla v. Farmers Group, Inc.*, 119 Cal. App. 4th 1070 (2004).

As we have repeatedly demonstrated in other cases, my firm and I are willing and able to commit all necessary resources to this litigation to adequately represent plaintiffs and the proposed classes through trial and, if needed, on appeal. As counsel in *DeFiesta*, *Cunningham*, and *Badeanlou*, we have conducted extensive factual investigation on the false advertising and consumer protection claims brought on behalf of owners/lessees and the technical aspects of the defeat device, coordinated with numerous plaintiffs and plaintiffs' counsel to file complaints, and have corresponded with the California Air Resources Boards to provide advice to California owners and lessees on the appropriate action to take with their vehicles and vehicle registration.

Finally, I believe my ability to bring a productive, cooperation-based and problem solving approach to litigation makes me well-suited for appointment to a steering committee in this litigation. See Juan Carlos Rodriguez, *Titan of the Plaintiffs Bar: Tim Blood*, Law360, Sept. 25, 2014, <http://www.law360.com/articles/580600/titan-of-the-plaintiffs-bar-tim-blood>.

Respectfully,

TIMOTHY G. BLOOD